

HOUSE BILL REPORT

SHB 1817

As Passed House:

March 11, 2005

Title: An act relating to ensuring the lawful transport and handling of recyclable materials.

Brief Description: Improving recycling.

Sponsors: By House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives B. Sullivan, Ericks, Hinkle, Simpson, Buck, Murray, Hankins, Williams, Haigh and McDermott).

Brief History:

Committee Activity:

Natural Resources, Ecology & Parks: 2/18/05, 3/1/05 [DPS].

Floor Activity:

Passed House: 3/11/05, 93-0.

Brief Summary of Substitute Bill

- Requires the transporters of recyclable materials to register with the state or face a civil violation.
- Requires certain recycling facilities to notify the state before commencing operations.

HOUSE COMMITTEE ON NATURAL RESOURCES, ECOLOGY & PARKS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives B. Sullivan, Chair; Upthegrove, Vice Chair; Buck, Ranking Minority Member; Kretz, Assistant Ranking Minority Member; Blake, DeBolt, Dickerson, Eickmeyer, Hunt, Orcutt and Williams.

Staff: Jason Callahan (786-7117).

Background:

The Waste Not Washington Act of 1989 established a policy framework for waste reduction, reuse, and recycling that included setting a goal for the state to recycle 50 percent by 2007. In part, the purpose of the legislation is to encourage the development and operation of waste recycling facilities and to promote consistent requirements for the facilities.

Most facilities that handle solid waste, including recyclable materials, must maintain a solid waste handling permit from the health department with jurisdiction over the area, which can issue a permit only after consulting with the Department of Ecology (Department). Some solid waste handling facilities are exempt from this requirement. These include facilities that present little or no environmental risk, or that satisfies environmental performance requirements established for similar facilities. Similarly, a local health department may defer permitting requirements for certain facilities that have obtained other permits that regulate air, water, or the environment.

Summary of Substitute Bill:

Recycling transporter requirements:

Definition of "transporter"

The term "transporter" is defined to mean a person who transports recyclable materials for compensation from commercial or industrial generators over the public highways of the state. To be considered a transporter, the person must also be required to possess a permit from the Utilities and Transportation Commission. The term "transporter" also includes the commercial recycling operators of certified solid waste collection companies.

Regardless of their practices, certain persons are categorically exempt from the term "transporter." These include:

- persons that buy and sell recyclable materials, and transport those materials in their own car as an incidental activity to their business;
- persons hauling their own recyclables;
- non-profit organizations;
- city solid waste departments and city contractors; and
- common carriers who are not primarily in the business of transporting recyclable materials.

Registration requirements

Prior to transporting recyclable materials, a transporter must register with the Department, on forms provided by the Department. Failure to register with the Department is punishable by a civil penalty of up to \$1,000.

Transporter destinations

If a transporter delivers recyclable materials to a landfill or a transfer station, he or she is subject to a civil penalty of up to \$1,000. In addition, all transporters must keep records for two years of the locations where recyclable materials were delivered and the quantities delivered. The records must be made available for inspection by the Department and local health jurisdictions, and include information such as the name of the generator, the service date, and where the materials were ultimately marketed.

Recycling facilities:

Notification and reporting requirements

All facilities that recycle solid waste are required to provide written notification to the Department and the appropriate local health jurisdiction 30 days prior to commencing operations, or 90 days after the effective date of the act. The notification is required to include a general description of the recycling activity at the facility, including an explanation of the recycling process and methods.

Facilities required to provide notification are also required to submit annual reports to the Department and the local health district. The reports are required to detail all recycling activities of the previous year, including the quantities and types of wastes received, recycled, and disposed of by the reporting facility.

A facility, except for product take-back centers, that fails to notify the Department prior to recycling solid waste, can be subjected to a civil penalty of up to \$1,000.

Facilities that are required to have a solid waste handling permit are not required to provide the notification or reports required of other facilities.

Financial assurance requirements

All recycling facilities are required to obtain financial assurances for their operations. The amount of assurance is set by the Department, and must take into account the amounts and types of materials accepted, and the potential costs that could be associated with a closure of the facility.

Causes of action

Any violation of the requirements on transporters or recycling facilities can serve as a civil cause of action. The plaintiff in such a cause of action may request that a court grant injunctive relief against the transporter or facility, or award damages. The prevailing party in any court case brought under this cause of action is entitled to costs and attorneys' fees.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: The intent of the legislation is to legitimize an emerging industry. Some companies claim to recycle the products they haul, but in actuality just dispose of the materials in a landfill. This sham recycling should be stopped.

Sham recycling has high costs. Not only are the products not reclaimed, the tax money that the state collects on waste disposal is lost. The consumers of waste management companies should be given the assurances that their recyclable materials are indeed being recycled.

This bill only requires commercial haulers to register. It does not impact charities or companies that simply collect recyclable materials. Increases in sham recycling will discourage legitimate recycling businesses. Accountability is never an enemy of recycling.

A study bill is just a waste of time and effort. The Legislature needs to act with substantive legislation.

Testimony Against: The stated intent of the bill is not supported by its language. The bill creates a standard so high that legitimate recycling will be discouraged and new investments will dry up. If recycling is just as burdensome as disposal, then less materials will not be diverted from the landfills and reclaimed. As the cost of recycling goes up, the economic incentive to recycle goes down.

The bill would exclude private enterprises from the recycling industry, and give a monopoly to companies that have contracts with cities. The net is cast too broadly. There is no distinction between sham recyclers and those legitimately in the business and doing what is right.

(With concerns to original bill) This is a new issue before the Legislature, and it should be studied before more action is taken. All stakeholders need to be included. Many did not see this legislation until it became a bill and were never consulted.

Persons Testifying: (In support of original bill) Steve Wheatley, Brad Lovaas, Jem Sells, Vicki Austin, Washington Refuse and Recycling Association; Jerry Smedes, Basin Disposal and Emerald Services; Jody Snyder, Pierce County Recycling and Disposal; Pete Keller, Rubanco Incorporated; and Norman Lemay, Lemay Incorporated.

(With concerns to original bill) Steve Goldstein, Snohomish County Solid Waste Division; Tom Dooley, ReNu; Earl Tower, Schniton Steel; Stephen Wamback, Pierce County; Gene Eckhardt, Washington Utilities and Transportation Commission; Cullen Stephenson, Department of Ecology; Ashley Probart, Association of Washington Cities; and Angela Rae, Washington State Recycling Association.

(Opposed to original bill) John Yeasting, Marathon Wood Recovery; Shawn M, Doherty, Construction Waste Management; Suellen Mele, Washington Citizen for Resource Conservation; Jacob Van De Rhoer, Affow Metals Corporation and Institute of Scrap Recycling Industries; Michael Armstrong and Patrick Burningham, Second Use Building Material Incorporated; David Dougherty, The Dougherty Group; Draig Lorch, Total Reclaim; Jonathan Howe, West Seattle Recycling Incorporated; Michael Drummond, Olympia Salvage; and Jeff Gage, Swanson Bark.

Persons Signed In To Testify But Not Testifying: None.